

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS**

JOHNNIE CLIMES,

Plaintiff

V.

PORTFOLIO RECOVERY ASSOCIATES,
LLC,

Defendant

Case No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

(Unlawful Debt Collection Practices)

COMPLAINT

JOHNNIE CLIMES (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against PORTFOLIO RECOVERY ASSOCIATES, LLC, (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

PARTIES

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

11. The alleged debt at issue arose out of transactions, which were primarily for personal, family, or household purposes.

12. By way of background, beginning in or around the spring of 2015, Defendant began placing repeated calls to Plaintiff's cellular telephone concerning a credit card debt.

13. In or around November or December 2015, Plaintiff informed Defendant that she could no longer make payments toward the alleged credit card debt because she lost her job and told Defendant to stop calling her.

PLAINTIFF'S COMPLAINT

1 number, Defendant continued to call Plaintiff, and specifically placed calls to Plaintiff between
2 September 2016 and July 2017 in regards to the alleged debt.

3 15. Once Defendant knew Plaintiff did not wish to receive such calls from
4 Defendant, any further calls could only have been placed for the purpose of harassing Plaintiff.

5 16. Defendant's actions as described herein were made with the intent to harass,
6 upset, and coerce payment from Plaintiff.
7

8
9 **COUNT I**
10 **DEFENDANT VIOLATED §§1692d and d(5) OF THE FDCPA**

11 17. Section 1692d of the FDCPA prohibits debt collectors from engaging in any
12 conduct the natural consequence of which is to harass, oppress, or abuse any person in
13 connection with the collection of a debt.

14 18. Section 1692d(5) of the FDCPA prohibits debt collectors from causing the
15 telephone to ring or engaging any person in telephone conversation repeatedly with intent to
16 annoy, abuse or harass.

17 19. Defendant violated §§1692d and d(5) when it placed repeated harassing
18 telephone calls to Plaintiff's cellular telephone and continued to call knowing that its calls were
19 unwanted between September 2016 and July 2017.
20

21 WHEREFORE, Plaintiff, JOHNNIE CLIMES, respectfully prays for a judgment as
22 follows:
23

- 24 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1) and 47
25 U.S.C. §227(b)(3)(A);

- b. Statutory damages of \$1,000.00 for each Plaintiff for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, JOHNNIE CLIMES, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: September 8, 2017

KIMMEL & SILVERMAN, P.C.

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